

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 12-O-17110-RAP
)	
JOHN WILLIAM HILL,)	
)	DECISION AND ORDER OF INVOLUNTARY
Member No. 42266,)	INACTIVE ENROLLMENT
)	
<u>A Member of the State Bar.</u>)	

Respondent John William Hill (Respondent) is charged with four counts of misconduct. He failed to participate either in person or through counsel, and his default was entered. The Office of the Chief Trial Counsel (State Bar) filed a petition for disbarment under rule 5.85 of the Rules of Procedure of the State Bar.¹

Rule 5.85 provides the procedure to follow when an attorney fails to participate in a disciplinary proceeding after receiving adequate notice and opportunity. The rule provides that, if an attorney's default is entered for failing to respond to the notice of disciplinary charges (NDC) and the attorney fails to have the default set aside or vacated within 180 days, the State Bar will file a petition requesting the court to recommend the attorney's disbarment.²

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¹ Except where otherwise indicated, all further references to rules are to the Rules of Procedure of the State Bar.

² If the court determines that any due process requirements is not satisfied, including adequate notice to the attorney, it must deny the petition for disbarment and take other appropriate action to ensure that the matter is promptly resolved. (Rule 5.85(E)(2).)

In the instant case, the court concludes that the requirements of rule 5.85 have been satisfied and, therefore, grants the petition and recommends that Respondent be disbarred from the practice of law.

FINDINGS AND CONCLUSIONS

Respondent was admitted to the practice law in this state on June 19, 1968, and has been a member since then.

Procedural Requirements Have Been Satisfied

The State Bar filed the NDC in this proceeding on February 25, 2013. The State Bar previously served the NDC on Respondent on February 22, 2013, by certified mail, return receipt requested, at Respondent's membership records address. The NDC notified Respondent that his failure to participate in the proceeding would result in a disbarment recommendation. (Rule 5.41.) The State Bar received the return receipt on February 28, 2013, signed by Isela Lopez.

Thereafter, on March 29, 2013, the State Bar attempted to reach Respondent by (1) calling at his present and prior official membership records-telephone numbers; (2) performing an online public records search on the internet; (3) performing an online search for additional telephone numbers for Respondent; and (4) sending a courtesy copy of the NDC to Respondent by certified mail, return receipt requested, at Respondent's previous official membership records address. Thereafter, on April 4, 2013, the State Bar received the return receipt for the courtesy copy. The receipt was signed/stamped "SBC Dial Courier."

Respondent failed to file a response to the NDC. On April 8, 2013, the State Bar filed and properly served a motion for entry of default on Respondent by certified mail, return receipt requested, to his membership records address. The motion complied with all the requirements for a default, including a supporting declaration of reasonable diligence by the State Bar deputy trial counsel declaring the additional steps taken to provide notice to Respondent. (Rule 5.80.)

The motion also notified Respondent that, if he did not timely move to set aside his default, the court would recommend his disbarment.

Respondent did not file a response to the motion, and his default was entered on April 25, 2013. The order entering the default was properly served on Respondent at his membership records address by certified mail, return receipt requested. The court also ordered Respondent's involuntary inactive enrollment as a member of the State Bar under Business and Professions Code section 6007, subdivision (e),³ effective three days after service of the order. He has remained on inactive enrollment since that time. The return receipt was returned to the court showing that the order was received by "Isela" and delivered on April 26, 2013.

Respondent also did not seek to have his default set aside or vacated. (Rule 5.83(C)(1) [attorney has 180 days to file motion to set aside default].) On January 7, 2014, the State Bar filed and properly served the petition for disbarment on Respondent by certified mail, return receipt requested, to his membership records address. As required by rule 5.85(A), the State Bar reported in the petition that (1) Respondent has not had any contact with the State Bar after his default was entered on April 25, 2013;⁴ (2) there are no other disciplinary matters pending against Respondent; (3) Respondent has no prior record of discipline; and (4) the Client Security Fund has not made any payments resulting from Respondent's conduct. Respondent did not respond to the petition for disbarment or move to set aside or vacate the default. The case was submitted for decision on February 5, 2014.

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³ All further statutory references are to the Business and Professions Code.

⁴ In fact, the last time that Respondent contacted the State Bar about the present misconduct was on January 8, 2013, when he left a voicemail message for a State Bar investigator.

The Admitted Factual Allegations Warrant the Imposition of Discipline

Upon entry of a Respondent's default, the factual allegations in the NDC are deemed admitted and no further proof is required to establish the truth of such facts. (Rule 5.82.) As set forth below in greater detail, the factual allegations in the NDC support the conclusion that Respondent is culpable as charged and, therefore, violated a statute, rule or court order that would warrant the imposition of discipline. (Rule 5.85(E)(1)(d).)

Case Number 12-O-17110

Count One -- Respondent willfully violated rule 3-110(A) of the Rules of Professional Conduct (failing to perform legal services with competence) by failing to file an answer to a civil complaint for his client Theresa Landers, failing to respond to a request for the entry of his client's default in that lawsuit, failing to seek relief from the entry of his client's default in that lawsuit, and failing to attempt to settle the civil lawsuit.

Count Two -- Respondent willfully violated rule 3-700(D)(2) of the Rules of Professional Conduct (failing to refund unearned fees) by failing to refund \$1,500 in unearned fees to his client in the civil lawsuit.

Count Three -- charges that Respondent willfully violated section 6068, subdivision (m), which requires that an attorney promptly respond to a client's reasonable status inquiries and to keep the client reasonably informed of significant developments in the represented matter. Count three is DISMISSED with prejudice because it does not charge Respondent with failing to respond to reasonable status inquiries or to inform the client of significant developments. Count three charges Respondent only with failing to respond to a letter asking for a refund of the unearned fees and a declaration to support a motion for relief from default.

Count Four -- Respondent willfully violated section 6068, subdivision (i) (failing to cooperate/participate in a disciplinary investigation) by failing to provide a

meaningful/substantive response to the State Bar's letter asking him for information regarding the complaint that Landers filed against him or to otherwise cooperate in the State Bar's investigation of that complaint.

Disbarment is Recommended

Based on the above, the court concludes that the requirements of rule 5.85(E) have been satisfied, and Respondent's disbarment is recommended. In particular:

- (1) the NDC was properly served on Respondent under rule 5.25;
- (2) reasonable diligence was used to notify Respondent of the proceedings prior to the entry of his default, as the State Bar (a) filed and properly served the NDC on Respondent by certified mail, return receipt requested, at his membership records address; (b) attempted to reach Respondent by calling his membership records telephone numbers; (c) performed an online internet search for public records and new or additional telephone numbers for Respondent; and (d) sent Respondent a courtesy copy of the NDC at Respondent's previous official membership records address;
- (3) the default was properly entered under rule 5.80; and
- (4) the factual allegations in the NDC deemed admitted by the entry of the default support a finding that Respondent violated a statute, rule or court order that would warrant the imposition of discipline.

Despite reasonable notice and opportunity, Respondent failed to participate in this disciplinary proceeding. As set forth in the Rules of Procedure of the State Bar, the court recommends disbarment.

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RECOMMENDATIONS

Disbarment

The court recommends that Respondent John William Hill be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys.

Restitution

The court recommends that Respondent be ordered to make restitution to Theresa Landers in the amount of \$1,500 plus 10 percent interest per year from April 30, 2012.

Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

California Rules of Court, Rule 9.20

The court also recommends that Respondent be ordered to comply with the requirements of California Rules of Court, rule 9.20 and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order in this proceeding.

Costs

The court further recommends that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, such costs being enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

In accordance with Business and Professions Code section 6007, subdivision (c)(4), the court orders that John William Hill, State Bar number 42266, be involuntarily enrolled as an

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inactive member of the State Bar of California effective three calendar days after the service of this decision and order. (Rules Proc. of State Bar, rule 5.111(D).)

Dated: April 23, 2014.

RICHARD A. PLATEL
Judge of the State Bar Court